



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 01713-00
26 May 2000

MR [REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 2 March 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board noted the applicable directive was Marine Corps Order (MCO) P1610.7C, not P1610.7D, which you cited. While paragraph 4007.4a of MCO P1610.7C does say a fitness report narrative "should not include minor and insignificant imperfections" as they "serve no useful purpose," the Board was unable to find the report at issue violated this guidance. They did agree with you that the report at issue, as submitted by the reporting senior, was not specific as to how you conducted yourself; however, they noted your rebuttal statement to the contested report clarifies the factual basis for the reporting senior's assessment. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

1713-00
IN REPLY REFER TO:
1610
MMER/PERB
2 MAR 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
SERGEANT [REDACTED] SMC

Ref: (a) Sergeant [REDACTED] DD Form 149 of 30 Dec 99
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 1 March 2000 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 940512 to 940602 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the Reporting Senior failed to specify exactly how his alleged "belligerent attitude" affected his performance or professionalism. He also cites the provisions of paragraph 5001 of reference (b) which suggest that deficiencies should be recorded only if no improvement is noted following counseling. To support his appeal, the petitioner furnishes his own statement as to the events and circumstances leading up to his disenrollment, and copies of excerpts from his medical record.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Since the report at issue documents the petitioner's disenrollment from a formal course of instruction, it is logical to conclude that additional observation following a period of counseling could not occur. Hence, the petitioner's argument in that regard is considered without merit or substance. .

b. The issue in this situation was not the petitioner's medical situation at the time. Rather, it was his attitude towards the staff. For that, he was correctly held accountable and the matter recorded via the performance evaluation system. To this end, the Board discerns neither an error nor an injustice.

(3) PERB

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
SERGEANT [REDACTED] USMC

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps